

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

UNITED STATES OF AMERICA	)	
	)	Case No. 1:11-CR-20
v.	)	
	)	Chief Judge Curtis L. Collier
MARCIELL EASTERLING	)	

**ORDER**

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court:

(1) grant Defendant's motion to withdraw his not guilty plea to Counts One and Two of the three-count Superseding Indictment; (2) accept Defendant's plea of guilty to a portion of Count One, that is, conspiracy to distribute and possess with intent to distribute 50 kilograms or more of a mixture and substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of 21 USC §§ 846, 841(a)(1) and 841(b)(1)(C) and Count Two, that is, knowingly using and carrying a firearm during and in relation to a drug trafficking crime in violation of 18 USC § 924(c)(1)(A)(I); (3) adjudicate Defendant guilty of the charges in a portion of Count One, that is, conspiracy to distribute and possess with intent to distribute 50 kilograms or more of a mixture and substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of 21 USC §§ 846, 841(a)(1) and 841(b)(1)(C) and Count Two, that is, knowingly using and carrying a firearm during and in relation to a drug trafficking crime in violation of 18 USC § 924(c)(1)(A)(I) of the Superseding Indictment; (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter (Court File No. 51). Neither party filed a timely objection to the report and recommendation.

After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation (Court File No. 51) pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

- (1) Defendant's motion to withdraw his not guilty plea to a portion of Count One, that is, conspiracy to distribute and possess with intent to distribute 50 kilograms or more of a mixture and substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of 21 USC §§ 846, 841(a)(1) and 841(b)(1)(C) and Count Two, that is, knowingly using and carrying a firearm during and in relation to a drug trafficking crime in violation of 18 USC § 924(c)(1)(A)(I) of the Superseding Indictment is **GRANTED**;
- (2) Defendant's plea of guilty to the charges in a portion of Count One, that is, conspiracy to distribute and possess with intent to distribute 50 kilograms or more of a mixture and substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of 21 USC §§ 846, 841(a)(1) and 841(b)(1)(C) and Count Two, that is, knowingly using and carrying a firearm during and in relation to a drug trafficking crime in violation of 18 USC § 924(c)(1)(A)(I) is **ACCEPTED**;
- (3) Defendant is hereby **ADJUDGED** guilty of the charges in a portion of Count One, that is, conspiracy to distribute and possess with intent to distribute 50 kilograms or more of a mixture and substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of 21 USC §§ 846, 841(a)(1) and 841(b)(1)(C) and Count Two, that is, knowingly using and carrying a firearm during

and in relation to a drug trafficking crime in violation of 18 USC § 924(c)(1)(A)(I);

(4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing;

and

(5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **Thursday, November 17, 2011 at 9:00 a.m.** before the

Honorable Curtis L. Collier.

**SO ORDERED.**

**ENTER:**

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**